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Attorneys for Plaintiff
GEICO County Mutual Insurance Company

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA, SOUTHERN DIVISION

GEICO COUNTY MUTUAL INSURANCE
COMPANY, a Corporation,

Plaintiff,

v.

RYAN A. ANDERSON, an Individual;
JONATHAN R. ANDERSON, an Individual;
Alixandria Burton as Special Administrator of
the ESTATE OF WALTER R. ANDERSON;
ANDREW JAMES RODRIGUEZ, an
Individual,

Defendants.

Case No. 2:23-cv-00985-JCM-DJA

**ORDER RE:
MOTION TO ENLARGE TIME TO
SERVE DEFENDANTS**

Plaintiff GEICO County Mutual Insurance Company ("GEICO"), by and through its attorneys of record, the law firm McCormick, Barstow, Sheppard, Wayte & Carruth LLP, hereby moves this Honorable Court pursuant to FRCP 4(e) and NRCP 4(e)(1) for Order enlarging the time allowed to serve the Summons and Complaint on Defendants Ryan A. Anderson, Jonathan R. Anderson, Alixandria Burton as Special Administrator of the Estate of Walter R. Anderson and Andrew James Rodriguez.

1 **I. INTRODUCTION AND FACTUAL BACKGROUND**

2 GEICO instituted this declaratory relief action on June 27, 2023 seeking to have this Court
 3 declare that the claims of Ryan Anderson, Jonathan Anderson and Alixandria Burton as Special
 4 Administrator of the Estate of Walter R. Anderson, are all derivative in nature arising from the death
 5 of Decedent Walter R. Anderson, and that under the terms and conditions of GEICO policy no.
 6 4335-88-94-83, they are not entitled to recover from GEICO on any judgment in the Underlying
 7 Action entitled *Anderson v. Rodriguez*, Clark County District Court, Nevada case no. A-21-838344-
 8 C (the “Underlying Action”) against any covered person for an amount in excess of the policy’s
 9 \$100,001 “Each Person” limit. *See* ECF No. 1. The summonses as to all Defendants were issued
 10 on June 29, 2023. *See* ECF Nos. 6, 6-1, 6-2, and 6-3. GEICO filed its Amended Complaint for
 11 Declaratory Relief on July 13, 2023 to correct the inadvertent inclusion of its Named Insureds, David
 12 Lara and Sylvia Rodriguez, as named defendants to the declaratory relief action. *See* ECF No. 10.

13 On July 31, 2023, in an attempt to formally serve the Summons and First Amended
 14 Complaint, counsel for GEICO prepared correspondence to counsel representing Defendants Ryan
 15 Anderson, Jonathan Anderson and Alixandria Burton as Special Administrator of the Estate of
 16 Walter R. Anderson (the “Anderson Defendants”) in the Underlying Action enclosing a copy of the
 17 Amended Complaint for Declaratory Judgment filed on July 13, 2023, the accompanying court
 18 documents, and a Notice and Acknowledgment of Receipt of Summons and Complaint requesting
 19 they accept service on behalf of the Anderson Defendants. *See* July 31, 2023 Correspondence to
 20 Peter S. Christiansen, Esq., attached hereto as Exhibit 1. An identical letter was addressed and sent
 21 that same date by counsel for GEICO to counsel for Defendant Andrew Rodriguez in the Underlying
 22 Action. *See* July 31, 2023 Correspondence to Craig S. Newman, Esq., attached hereto as Exhibit 2.

23 Shortly thereafter, the parties to the Underlying Action reached a settlement. *See* Notice of
 24 Settlement filed August 9, 2023 in Clark County District Court, Nevada case no. A-21-838344-C,
 25 attached hereto as Exhibit 3. A status check in the Underlying Action regarding the settlement has
 26 been scheduled for September 12, 2023 at 9:15 a.m. before the Hon. Jasmin Lilly-Spells in
 27 Department 23. *See* Notice of Hearing filed August 28, 2023, attached hereto as Exhibit 4.

28 The current deadline for GEICO to serve all Defendants in this declaratory relief action is

1 September 25, 2023. FRCP 4(m). If the settlement in the Underlying Action becomes
 2 finalized pursuant to the filing of dismissal with prejudice, the instant declaratory relief action will
 3 become moot. However, if for any reason the settlement in the Underlying Action should not be
 4 finalized or otherwise fall through, GEICO will likely need to proceed with the instant action.

5 Based on the foregoing, GEICO respectfully requests an extension of ninety (90) days within
 6 which to serve all Defendants in this declaratory relief action. If the Underlying Action should
 7 resolve as anticipated, service will not need to be effectuated and the instant action may be
 8 dismissed. However, if the Underlying Action should not resolve, the instant action may need to
 9 proceed.

10 An enlargement of time to serve Defendants does not prejudice any party because this action
 11 will either be dismissed or the parties will be formally served personally. Further, an enlargement
 12 of time is in the interest of judicial economy, preserving the instant action should it need to move
 13 forward rather than being dismissed on grounds of lack of timely service and requiring GEICO to
 14 refile its Complaint at a later date.

15 **II. LAW AND ARGUMENT**

16 **A. Motion to Enlarge Time to Serve All Defendants.**

17 Local Rule of Practice LR IC 3-1(d), states in relevant part: “In the absence of a court order,
 18 the applicable Federal Rules, statutes, or local rules govern computing and extending time for
 19 serving and filing of all documents notwithstanding any contrary deadline in a Notice of Electronic
 20 Filing.”

21 FRCP 6(b) provides:

22 (b) Extending Time.

23 (1) In General. When an act may or must be done within
 24 a specified time, the court may, for good cause, extend
 the time:

25 (A) with or without motion or notice if the court
 26 acts, or if a request is made, before the original
 time or its extension expires

27 Here, good cause exists for an Order enlarging the time to serve the Summons and Complaint
 28 on all Defendants. After filing its Amended Complaint for Declaratory Relief, GEICO attempted

1 to have the defendants served via Notices of Acknowledgment and Receipt. Shortly
 2 thereafter, however, the parties in the Underlying Action reached a tentative settlement, which,
 3 if finalized, will render the instant declaratory relief action moot. GEICO therefore seeks this
 4 extension of time to allow the settlement of the Underlying Action to become finalized without
 5 foregoing its right to pursue the declaratory relief action should the Underlying Action
 6 settlement not be finalized for some unknown, unanticipated reason. Should the latter happen,
 7 GEICO will immediately re-enlist efforts to personally serve the parties.

8 As demonstrated above, good cause exists for an Order enlarging the time by ninety (90)
 9 days to serve the Summons and Amended Complaint for Declaratory Relief on all Defendants.

10 **III. CONCLUSION**

11 Based on the foregoing, Plaintiff GEICO County Mutual Insurance Company respectfully
 12 requests an Order enlarging the time to serve all Defendants to a date of ninety (90) days after the
 13 date of the Court's order granting this Motion.

14 Dated: August 31, 2023

McCORMICK, BARSTOW, SHEPPARD,
 WAYTE & CARRUTH LLP

16 By: /s/ Jonathan W. Carlson

17 James P. Wagoner

18 Nevada Bar No.

Jonathan W. Carlson

19 Nevada Bar No. 10536

Mandy Vogel

20 Nevada Bar No. 16150

Attorneys for Plaintiff

21 GEICO County Mutual Insurance Company

22 9324837.1

23 **IT IS SO ORDERED.** Plaintiff shall have until November 29, 2023 within which
 to serve Defendants.

24 DATED this 5th day of September, 2023.

25 

26 DANIEL J. ALBREGTS

27 UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of August, 2023, a true and correct copy of **MOTION TO ENLARGE TIME TO SERVE DEFENDANTS** was served via the United States District Court CM/ECF system on all parties or persons requiring notice.

By /s/ Susan Kingsbury
an Employee of
McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

EXHIBIT 1



James P. Wagoner
jim.wagoner@mccormickbarstow.com

*Certified Appellate Law Specialist certified
by the Board of Legal Specialization of the
California State Bar.

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Fax (805) 541-2802

July 31, 2023

Via Email: Pete@christiansenlaw.com

Peter S. Christiansen, Esq.
Christiansen Trial Lawyers
710 S. 7th Street, Suite B
Las Vegas, Nevada 89101

Re: *Ryan Anderson v. Andrew James Rodriguez*, District Court, Clark County
Nevada, Case No. A-21-838344-C

GEICO County Mutual Insurance Company v. Ryan Anderson, et al.
District Case No. 2-23-cv-00985-JCM-DJA

Dear Mr. Christiansen:

This Firm and the undersigned are counsel of record for GEICO County Mutual Insurance Company ("GEICO") in the above-referenced declaratory relief action. Enclosed herewith is a copy of the Amended Complaint for Declaratory Relief filed on July 13, 2023, the accompanying court documents, and a Notices and Acknowledgments of Receipt of Summons and Complaint.

We ask that you accept service for Defendants Ryan A. Anderson, Jonathan R. Anderson, and Alexandria Burton as the Special Administrator for the Estate of Walter R. Anderson by way of the enclosed Notices and Acknowledgments of Receipt and return a signed copy of the Acknowledgments to our office. Otherwise, we will have no choice but to attempt to have the documents formally served.

Please contact our office if you have any questions. Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. P. Wagoner'.

James P. Wagoner
McCormick Barstow LLP

Enclosures

9207264.1

EXHIBIT 2



James P. Wagoner
jim.wagoner@mccormickbarstow.com

*Certified Appellate Law Specialist certified
by the Board of Legal Specialization of the
California State Bar.

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July 31, 2023

Via Email: cnewman@sklar-law.com

Craig S. Newman, Esq.
Sklar Williams PLLC
410 South Rampart Blvd., Ste. 350
Las Vegas, Nevada 89145

Re: *Ryan Anderson v. Andrew James Rodriguez*, District Court, Clark County
Nevada, Case No. A-21-838344-C

GEICO County Mutual Insurance Company v. Ryan Anderson, et al.
District Case No. 2-23-cv-00985-JCM-DJA

Dear Mr. Newman:

This Firm and the undersigned are counsel of record for GEICO County Mutual Insurance Company ("GEICO") in the above-referenced declaratory relief action. Enclosed herewith is a copy of the Amended Complaint for Declaratory Relief filed on July 13, 2023, the accompanying court documents, and a Notice and Acknowledgment of Receipt of Summons and Complaint.

We ask that you accept service for Defendant Andrew James Rodriguez by way of the enclosed Notice and Acknowledgment of Receipt and return a signed copy of the Acknowledgment to our office. Otherwise, we will have no choice but to attempt to have the documents formally served.

Please contact our office if you have any questions. Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. P. Wagoner'.

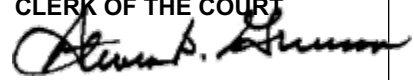
James P. Wagoner
McCormick Barstow LLP

Enclosures

9208736.1

EXHIBIT 3

Electronically Filed
8/9/2023 11:42 AM
Steven D. Grierson
CLERK OF THE COURT



NOTC
THOMAS E. WINNER
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ZACHARY W. LIVINGSTON
Nevada Bar No. 15954
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twinner@winnerfirm.com
zlivingston@winnerfirm.com
Attorney for Defendant

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

RYAN A. ANDERSON, JONATHAN R.
ANDERSON, ALIXANDRIA BURTON, as
Special Administrator of the ESTATE OF
WALTER R. ANDERSON, Deceased,

CASE NO.: A-21-838344-C
DEPT. NO.: XXIII

NOTICE OF SETTLEMENT

Plaintiffs,

vs.

ANDREW JAMES RODRIGUEZ, an
individual; SABRINA WENGER, an individual;
KEATON SCOTT LUTHER, an individual; ,
LUTHER CAPITAL, LLC, a Domestic Limited-
Liability Company; SCOTT L. HUSS, LLC, an
individual; ALL STAR CARS, LLC., a
Domestic Limited Liability Company; CORY
MCCORMACK, an individual; DOES I through
X, inclusive; and ROE BUSINESS ENTITIES I
through X, inclusive,

Defendants.

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

PLEASE TAKE NOTICE that the parties to the above-entitled action have now fully settled
their claims in this case, with an agreement that each side will bear their own fees and costs.

1 It is expected that the settlement documents can be exchanged, and this matter will be fully resolved,
2 with a Stipulation and Order for Dismissal with Prejudice filed with the Court within the next 30
3 days.

4
5 DATED this 9th day of August, 2023.

6 WINNER & BOOZE

7
8 /s/ Zach Livingston

9 THOMAS E. WINNER
10 Nevada Bar No. 5168
11 ZACHARY W. LIVINGSTON
12 Nevada Bar No. 15954
13 1117 S. Rancho Drive
14 Las Vegas, NV 89102
15 Phone (702) 243-7000
16 Facsimile (702) 243-7059
17 *twinner@winnerfirm.com*
18 Attorney for Defendant
19 Andrew Rodriguez
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

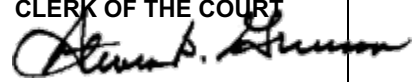
I certify that on this 9th day of August, 2023, the foregoing NOTICE OF SETTLEMENT was served on the following by ☐ Electronic Service pursuant to NEFR 9 ☒ Electronic Filing and Service pursuant to NEFR 9 ☐ hand delivery ☐ overnight delivery ☐ fax ☐ fax and mail ☐ mailing by depositing with the U.S. mail in Las Vegas, Nevada, enclosed in a sealed envelope with first class postage prepaid, addressed as follows:

R. Todd Terry
Kendelea L. Works
Christiansen Trial Lawyers
710 South 7th Street, Suite B
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

/s/ Sherri Leyva
An employee of WINNER & BOOZE

EXHIBIT 4

Electronically Filed
8/28/2023 9:10 AM
Steven D. Grierson
CLERK OF THE COURT



**DISTRICT COURT
CLARK COUNTY, NEVADA**

RYAN ANDERSON, PLAINTIFF(S)	CASE NO.: A-21-838344-C
VS.	
ANDREW RODRIGUEZ, DEFENDANT(S)	DEPARTMENT 23

NOTICE OF HEARING

TO: Peter S Christiansen
R. Todd Terry
Kendele Leascher Works
Whitney Barrett
Craig S. Newman
Johnathon Fayeghi
Steven C. Devney
John Holiday
Michael L. Shirts
Philip Goodhart
Patrick J. Sheehan
Michael C. Van
Garrett R. Chase

Please be advised that the above-entitled matter has been scheduled for Status Check: Settlement Documents, to be heard by the Honorable JASMIN LILLY-SPELLS, at the Regional Justice Center, 200 Lewis Ave, Las Vegas, Nevada 89155, on the 12th day of September, 2023, at the hour of 9:15 AM, in RJC Courtroom 12D, Department 23.

YOUR PRESENCE IS NECESSARY

HONORABLE JASMIN LILLY-SPELLS

/s/ Deborah Boyer

By: Deborah Boyer
Judicial Executive Assistant

CERTIFICATE OF SERVICE

I hereby certify that on or about the date e-filed, I served a copy of the foregoing document.

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/s/ Deborah Boyer

Deborah Boyer
Judicial Executive Assistant
Department 23